

HB 1086 - An Act Relating to Commercial Feed

Brief overview of agency program:

The Commercial Feed Program regulates the distribution of animal feeds to assure product safety, identity, quality and proper labeling. It registers and reviews the labels of more than 2,000 pet food products for nutritional claims, ingredients, and composition and licenses approximately 500 facilities operated by manufacturers and distributors of commercial livestock feed. It inspects feed mills for compliance with good manufacturing practices, especially in the manufacturing of medicated feeds, and collects and analyzes feed samples to determine accuracy of label guarantees. The program is funded primarily from registration, license and inspection fees.

Statement of need for the bill:

Pet Food Registration: All pet food products are required to be registered prior to distribution in Washington state. These products include cat and dog food as well as food for pets such as fish, birds, hamsters, and turtles. More than 2,000 pet food registrations are renewed each year, the bulk of which are processed in a 90-day time period. The registration process involves review and approval of applications and product labels, file updates, data entry, cashiering, and filing. Approximately 75% of the registrants are large, multi-state companies; about 25% are smaller, in-state manufacturers.

In the past five years, the department has moved from one-year registration periods to two-year registration periods for pesticides and fertilizers. These changes significantly reduced paperwork for registrants and the time it took for the department to process registrations. To increase the feed program's efficiency, this legislation moves pet food registration from a one-year to two-year registration period. Following the process used in pesticide and fertilizer registration, the change is phased in over a two-year period, with approximately half of the registration renewals due each year. Although the registration fees are doubled, the net income for the two-year period remains the same. The move to a two-year registration period is strongly supported by the pet food industry.

Inspection Fee Collection: WSDA collects inspection fees (also known as tonnage fees because the fee is assessed on a cents per ton basis) and audits tonnage reports for more than 2 million tons of commercial feed each year. Inspection fees generate about half of the program's annual fee-derived funding.

WSDA makes and receives numerous phone calls each year and deals with a large amount of unnecessary paperwork due to the unclear requirements around the reporting and payment of these fees. To address this problem, several statutory revisions are made to clarify who reports, what they report, and who is ultimately responsible for payment.

Only those licensees and registrants that owe inspection fees have been required to report the amount of commercial feed they distribute in Washington. Licensees and registrants who are not required to pay an inspection fee (because someone else is paying it) have not been required to file a report. About 75 to 100 of the 715 feed registrants and licensees fall into this group though many supply the information on request. The feed industry has long contended that the department is not collecting all the inspection fees that it should. The lack of required reporting by licensees and registrants who distribute feed but do not pay tonnage fees makes it difficult for the department to verify the accuracy of the reports it does receive and track down unpaid fees. This bill:

- Requires all licensees and registrants to submit a semi-annual report, whether they owe fees or not;

- Eliminates the annual reporting option for persons distributing less than 100 tons of feed every six months; and
- Clarifies that the minimum inspection fee applies only to firms who owe inspection fees, not to those who owe no fee.

Other statutory revisions eliminate inconsistencies in terminology and confusion related to inspection fees. These include amendments to provide the consistent use of the term “distribute” instead of “sale”, where appropriate. This change affects the payment of inspection fees by poultry processors who contract with farmers to raise their birds, providing both the birds and the feed to their contract feeders. In the past, since there was no “sale” involved, the poultry operations were not required to pay an inspection fee on the feed they provided to their growers. By changing the terminology to meet the intent of the law, these operations are required to pay an inspection fee on that portion of the feed on which fees have not already been paid by others. The amount of feed distributed to contract feeders for which fees have not already been paid is small and is estimated to amount to \$300-\$500 per year, depending upon the operation.

Together, these changes are intended to equitably apply the state’s commercial feed law to all feed companies doing business in Washington state.

Summary of the Major Provisions of the Bill:

1. Changes the pet food registration period from a one-year to a two-year registration period. The bill amends the same section of law twice. The first amendatory section (Sec. 3) is effective for 12 months starting July 1, 2005. It provides one-year registration for about half of the registrants, with the other half moving to a two-year registration period. The second amendatory section (Sec. 4) fully implements the two-year registration period.
2. Clarifies who is responsible for submitting tonnage reports and paying inspection fees by requiring all licensees and registrants to file a report twice a year with information on the volume of feed distributed in Washington, what volume they are paying fees on and who is responsible for paying the fees on the feed they are not paying on. (Sec. 7)
3. Ensures that all company-specific information on the amount of feed distributed in Washington is not subject to public disclosure. Feed distribution reports submitted by registrants and licensees are not subject to disclosure. This bill also exempts company-specific information that comes from sources other than the company.
4. Authorizes the department to obtain a warrant if a request to inspect a vehicle is denied. Current law authorizes WSDA to enter, inspect, obtain samples and examine records for feed facilities and vehicles, but only refers to facilities in the subsection on obtaining warrants. This change provides consistent authority for inspection activities. (WSDA has had no reason to use to use the warrant authority in at least 20 years.)
5. Updates or clarifies language and deletes outdated language in several sections. The changes include:
 - Adding two terms and clarifying two other terms in the definitions section (Sec. 1). Consistently using the term “distribute” where appropriate.
 - Clarifying licensing requirements (Sec. 2) to make it easier to understand for persons attempting to comply with its provisions.
 - Specifying what information must be provided on registration, responsible buyer, and licensing applications and feed distribution reports (Sec. 2, 3, 4, 5 and 7).

For more information, contact the Commercial Feed program at (877) 301-4555 or FeedReg@agr.wa.gov